

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 18th day of September, two thousand six.

PRESENT:

HON. JOSEPH M. McLAUGHLIN,
HON. SONIA SOTOMAYOR,
HON. ROBERT A. KATZMANN,

Circuit Judges.

Damon L. Ferguson,

Plaintiff-Appellant,

v.

05-6766-cv

New York City Transit Authority, Denise Herron,
MABSTOA, Metropolitan Transportation Authority,

Defendants-Appellees,

United States Department of Transportation,

Defendant.

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3 DAMON L. FERGUSON, Plaintiff-Appellant, *Pro se*, Bronx, N.Y.

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5 For Defendant-Appellee: H. REED ELLIS, MICHAEL P. PAPPAS, Littler
6 Mendelson P.C., New York, N.Y.
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8 On September 7, 2001, Plaintiff-Appellant Damon L. Ferguson filed an amended federal
9 complaint alleging that Defendants-Appellees had discriminated against him in his job as a
10 Computer Associate for Appellee MABSTOA on the basis of his race and sex, and had retaliated
11 against him, all in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
12 2000e, *et seq.* The district court (Gershon, J.) granted Appellees' motion for summary judgment
13 on November 23, 2005. We assume the parties' familiarity with the relevant facts and the
14 specification of issues on appeal.
15

16 This Court reviews an order granting summary judgment *de novo*, and asks whether the district
17 court properly concluded that there were no genuine issues of material fact and that the moving
18 party was entitled to judgment as a matter of law. *See Miller v. Wolpoff & Abramson, L.L.P.*,
19 321 F.3d 292, 300 (2d Cir. 2003). In determining whether there are genuine issues of material
20 fact, this Court is "required to resolve all ambiguities and draw all permissible factual inferences
21 in favor of the party against whom summary judgment is sought." *Terry v. Ashcroft*, 336 F.3d
22 128, 137 (2d Cir. 2003) (internal quotation marks omitted). This Court will only affirm the
23 dismissal of a claim on summary judgment if "it appears beyond doubt that the plaintiff can
24 prove no set of facts in support of [his] claim which would entitle [him] to relief." *Id.* (internal
25 quotation marks omitted, alterations in original).
26

27 Having considered each of Appellant's arguments, we affirm the judgment of the district court
28 for substantially the reasons given in its decision. Accordingly, the judgment of the district court
29 is AFFIRMED.
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32 FOR THE COURT:
33 Roseann B. MacKechnie, Clerk
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36 By: Richard Alcantara, Deputy Clerk